IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 2118 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 25/11/2004 in WPMP No.2002/04 in WPMP 12229/04 in WP NO : 9576 OF 2004 on the file of the High Court.)

Between:

The Chariminar Cooperative Urban Bank Limited, Purana Haveli, Hyderabad, Rep. by its Managing Director.

..... APPELLANT

AND

L. Pentaiah, S/o. Lakshmaiah,
.A4/R/o. 11-102-377.A4/22, Srinivasanagar, Secunderabad.

.....RESPONDENT

Counsel for the Appellant:MR.NUTY RAM MOHAN RAO

Counsel for the Respondent No.: MR.B.H.R.CHOWDARY

The Court made the following :

ORDER: (Per the Honourable Sri Justice S.Ananda Reddy)

This writ appeal is filed by the appellant-Bank aggrieved by the orders of the learned single Judge in disposing of the vacate stay petition in W.V.M.P.No:2002 of 2004 by modifying the order dated 15.6.2004 in W.P.M.P.No:12229 of 2004 directing the appellant Bank to deposit 50% of the wages as per the award and to pay 17 B wages from the date of award, within one month from that day and continue to pay 17 B wages every month.

According to the appellant-Bank, the workman -respondent herein was engaged as part time sweeper who used to work two to three hours per day and he was being paid consolidated sum. However, as a result of closure of the Bank, his services were discontinued. Therefore, he approached the Industrial Tribunal. Even before the Industrial Tribunal, it was reported that the workman-respondent was reinstated with effect from 1.4.2003. The Tribunal also recorded the said finding, however granted arrears of wages up to that date, apart from giving certain directions, which are subject matter of the writ petition pending.

In the writ petition filed by the present appellant, interim stay was originally granted and on the vacate stay petition in W.V.M.P.No:2002 of 2004 filed by the workman-respondent, the learned single Judge passed the following order:

> "Therefore the interim order dated 15.6.2004 in W.P.M.P.No:12229 of 2004 is modified to the following effect:
>
> "The interim stay granted on 15.6.2004 in W.P.M.P.No:12229 of 2004 shall continue during pendency of the writ petition, subject to condition that the petitioner deposits 50% of the wages as awarded by the labour Court and also paying section 17 B wages from the date of award, within one month from today and also paying section 17 B arrears regularly every month."

But, the grievance of the appellant-Bank is that when once the workman-respondent had already been reinstated, which fact has been even noted by the Tribunal at paragraph-5 of its order, there is no question of applying section 17 B of the Industrial Disputes Act for payment of any wages under the said provision.

The learned counsel for the workman-respondent has fairly conceded before this Court that the respondent has already been taken into service and has been continuing, but, however, pleaded that since the salary at the rate of Rs.500/- p.m., which is insufficient, is being paid to the respondent, the salary at the rate of Rs.1,500/- p.m. may be fixed by this Court pending disposal of the writ petition.

The said relief sought for by the workman-respondent, is not within the purview of the present proceedings. Primarily, the direction given by the learned single Judge, is not in accordance with the provisions of the Industrial Disputes Act as the workman-respondent is already in service, and, therefore, there is no question of paying the wages under the provisions of section 17 B of the Industrial Disputes Act. With reference to the arrears directed to be deposited to the extent of 50%, the appellant-Bank had closed its operations because of the mis-management of its financial affairs and even the amounts, which were kept in Savings Bank Account and Fixed Deposit Accounts, have not been allowed to be withdrawn or paid to the customers.

Under these circumstances, it is not proper and just to direct the appellant-Bank to deposit 50% of the arrears of wages at this stage, that too pending disposal of the writ petition.

In the result, this writ appeal is allowed and the order impugned is set aside. The writ petition is directed to be posted for final hearing immediately after the Sankranthi vacation 2005.

_____

Justice T.Meenakumari

23rd December, 2004.

_____

Justice S.Ananda Reddy.

Gurc.

Copies to the

1.Two C.D. files.

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE S.ANANDA REDDY

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

WRIT APPEAL NO : 2118 of 2004

(Order delivered by the Honourable

Sri Justice S.Ananda Reddy)

23rd December, 2004.